



Retail enforcement and compliance report

Issue 1: Autumn-winter 2017

ofgem

Making a positive difference
for energy consumers

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Welcome

Welcome to the first of our compliance and enforcement reports.

It's primarily intended for suppliers, to help them learn from our work, better understand their obligations, and for us to highlight upcoming changes.

This report is a response to the feedback we've had. In it we:

- summarise lessons for suppliers from our enforcement and compliance work
- remind about regulations, licence conditions and other legal requirements
- highlight our expectations on consumer issues
- signpost upcoming milestones or changes to help suppliers prepare.

We'd appreciate your feedback on our first update so we can improve it for future editions. Let us know what you think of it by completing our quick 5-minute [survey](#).

About Ofgem's compliance and enforcement work

We want our compliance and enforcement work to promote trust in the retail energy market, and a culture where businesses put energy consumers first and act in line with their obligations.

The energy market is changing rapidly. Our compliance and enforcement functions are changing in response.

We believe that prompt, accurate and comprehensive self-reporting by suppliers, combined with putting things right swiftly (ensuring no repeat breach), will make it more likely that we will seek to resolve the matter using a compliance approach. Compliance includes monitoring, analysis and engagement with suppliers to address risks to good consumer outcomes, generally without proceeding to formal investigation.

But when potential breaches are serious, or indicate repeated poor compliance, we are more likely to open an enforcement case.

Suppliers have asked us to be clear about the type of compliance issues they should self-report. They want us to explain how we will operate under principles-based regulation and what a proportionate regulatory response to non-compliance means in practice.

The cases in these reports are examples of the issues we would like suppliers to self-report. By explaining our expectations, we also hope to clarify the principles.

If you'd like to contact our compliance team, email Consumers.Director@ofgem.gov.uk.

Highlights from enforcement cases

New billing systems

When British Gas (BG) implemented a new billing system, it experienced issues that resulted in some non-domestic customers being billed inaccurately or not receiving their bills. Other issues included:

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- delays in switching to BG's energy supply
- not dealing with complaints promptly and efficiently
- issuing bills missing a contract end date
- customers whose complaints were open for 56 days were not directed to the Energy Ombudsman.

KEY CONSUMER OUTCOMES

Billing is an essential function, providing customers with information on their energy usage, charges and tariff rates. Licensees must take all reasonable steps to complete a supplier transfer within 21 days. Licensees must receive, handle and process consumer complaints promptly and efficiently.

WHAT WENT WRONG AND

In its decision, the Authority¹ described the ways in which BG had breached its licence and the reasonable steps which BG could have taken:

- More robust testing and piloting of the billing system to ensure no disruption for customers, including at complex, multi-sites, before migration began

¹ The Gas and Electricity Markets Authority, variously referred to as GEMA or the Authority, is the governing body of Ofgem

REMINDERS FOR ALL SUPPLIERS

- Putting sufficient controls in place before the implementation of the billing system so that problems and their root causes were more visible
- Ensuring its new billing system was fit for purpose from the outset: A reasonable step would have been for BG to have gone further in ensuring its new billing system could deliver against all of its customers' requirements, before commencing customer migrations
- Adequately monitoring processes and management information about the accuracy of its microbusiness customers' bills during the transition to the new billing system. Analysis of the root causes of some system issues could also have taken place at an earlier stage
- Having sufficient complaints handling staff resources in place at an early enough stage. It would also have benefitted from more effective staff training on the registrations process
- BG should have done more to contact customers who had suffered delays with coming onto supply as new customers.

The full decision notice is [here](#).

Highlights from compliance activity

Closed cases

Guaranteed Standards of Performance

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The [Guaranteed Standards](#) are minimum service standards for suppliers and their agents for making and keeping appointments, fixing faulty credit and prepayment meters (PPM) promptly, and reconnecting supplies quickly after disconnection for debt. Suppliers must pay compensation if they don't meet these standards, and we regularly assess suppliers' performance in meeting them.

KEY CONSUMER OUTCOMES

Consumers must be confident that when things go wrong, suppliers will put matters right fairly, quickly and professionally (compensating and providing redress where appropriate).

WHAT WENT WRONG AND REMINDERS FOR ALL SUPPLIERS

In December 2016, we published an [open letter](#) setting out key learnings/reminders:

- suppliers are responsible for the actions of contracted third parties where they affect suppliers' performance under the Guaranteed Standards
- suppliers must make sure that they have reliable systems for recording and transferring details of breaches between third party operator and the supplier.

We strongly encourage suppliers to report any potential non-compliance to us now and to take any prompt and effective remedial action that might be necessary.

In January 2017, British Gas told us it hadn't paid compensation to some microbusiness and domestic customers when agents missed appointments or did not keep them on time. This was caused by shortcomings in its processes which British Gas has corrected. British Gas also paid £1.1 million to the affected customers (see our [press release](#)). In December 2016, we also reported that E.ON and Ovo Energy compensated customers after missing appointments with customers, or turning up late, and then failing to compensate them. A common feature of these cases was that those suppliers had inadequate data recording and transferral arrangements with their meter operators and/or meter asset managers. See our press releases [here](#) and [here](#) for details.

Exit fees

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MoneySavingExpert.com told us that some suppliers were misinforming customers about when exit fees are charged. We looked into this and published a media release on E.ON and npower's actions to address problems with misinformation. We also opened an [investigation](#) into switching terms by British Gas, including the requirement to waive termination fees. The opening of this investigation does not imply that we have made any findings about non-compliance.

KEY CONSUMER OUTCOMES

Being able to exit a contract during the switching window without incurring a fee is a fundamental protection that we expect suppliers to [communicate](#) correctly. We want consumers to be able to switch suppliers reliably and quickly, and suppliers should not prevent a switch without proper reason.

WHAT WENT WRONG AND REMINDERS FOR ALL SUPPLIERS

- It is essential that all suppliers get the fundamental consumer protections for switching right, including the ability to switch without incurring exit fees during the 49-day 'switching window' before a fixed deal ends.
 - Conduct that may deter consumers from switching is more likely to be considered serious, although enforcement decisions will depend on the facts of the case.
 - Suppliers must contact consumers between 42-49 days before a fixed-term contract ends and make it clear that they would not be charged a fee for switching.
 - If a customer starts a switch during a fixed-term contract, the current supplier cannot charge customers a higher price if the switch completes after the fixed-term contract ends.
 - See the [tariffs and contracts](#) licence guide and the [press release](#).
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Prepayment Meter price cap

ISSUE Suppliers must ensure that the charges for the supply of electricity and/or gas to domestic customers do not exceed the amount specified under the Prepay price cap. Utilita offers prepay multi-tier tariffs for customers with SMETS meters and non-SMETS smart (NSS) meters. To comply with the Prepay price cap, Utilita was to reduce the usage thresholds of its multi-tier tariffs at the same time as amending the unit rates, but because of technical implementation problems, mistakenly, the usage thresholds were not changed. This resulted in customers paying more than they should have under the Prepay price cap. The issue affected around 348,000 customers with a combined overcharge of around £3.54 million.

KEY CONSUMER OUTCOMES Consumers should not bear the cost arising from the overcharge.

WHAT WENT WRONG AND REMINDERS FOR ALL SUPPLIERS This compliance issue was triggered by the Prepay price cap. There were two issues involved. In the case of SMETS meters, the threshold change did not take effect at the same time as the tariff change. In the case of the NSS meters, the underlying cause was down to a previously 'un-triggered' risk in Utilita's NSS system related to threshold change. As this was an older IT system, there was no failure message and Utilita was unaware that the threshold update had failed. This case illustrates the need to be prepared for compliance cases that are triggered by systems not being agile enough to deal with price regulation, and the need to pay close attention to consumer complaints. Compliance experience of the larger suppliers shows they have old and legacy systems that may be prone to such problems.

Although the PPM cap is a key priority for Ofgem, we dealt with this issue and closed our compliance engagement without taking further action. This was because Utilita handled the issue well by spotting it early (limiting the harm), quickly notifying us and telling us how it planned to fix it, and refunding affected customers. See the [press release](#) and the compliance [decision note](#) for more information.

See our [Safety and vulnerable consumer protections](#) licence guide.

Ongoing issues

Erroneous Transfers (ETs)

ISSUE Delivering reliable and fast switching for consumers is a key priority for Ofgem, allowing for a more competitive and engaged market. Faster switching may make it harder for customers to alert suppliers of an ET before it is processed. In 2016, there were around 75,000 domestic ETs. We intend to significantly reduce these.

Our two open letters, published in [March](#) and in [June](#) this year, encourage suppliers to work together to help prevent and resolve ETs.

**KEY
CONSUMER
OUTCOMES**

Consumers must be able to switch supplier reliably and quickly (including when moving property).

**REMINDERS
FOR ALL
SUPPLIERS**

- Suppliers should take all reasonable steps to ensure they have a valid contract with a customer at the point of a switch (as per SLC 14A.10-14A of the supply licence).
 - We expect suppliers to have strong risk-based approaches using MPxN and address validation processes to catch erroneous switch requests before the meter point is switched. For example, suppliers could consider additional steps to validate a customer's switch request and prevent ETs for higher-risk switch requests.
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Information requirements on suppliers' websites

ISSUE

Through our enhanced engagement and monitoring of new market entrants, we learnt that many suppliers' websites did not display essential information allowing customers to make informed choices or gain appropriate support. In our audit of all domestic suppliers, we found the requirements suppliers were least compliant with included:

- SLC 31B Tariff Information Label – should be easily accessible by inputting address or postcode only.
- SLC 13 Arrangements for site access – missing information on identifying agents.
- SLC 41 Domestic installation code – should be on the website.
- Complaints Handling Standards Regulations (CHSR) – regulation 11 Complaints handling report – should be on suppliers' website.

Other vital information includes the Priority Services Register for vulnerable consumers. We are working with non-compliant suppliers to ensure this basic information is available on their websites.

**KEY
CONSUMER
OUTCOMES**

Consumers must receive accurate, tailored and accessible information that allows them to make informed choices.

**REMINDERS
FOR ALL
SUPPLIERS**

- A supplier's website is a vital customer communication tool.
 - The supply licence and CHSR contain essential requirements for a supplier's website.
 - Our 'information to consumers' licence guide is [coming soon](#).
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Smart metering

Rollout plans

ISSUE

Suppliers are required to take all reasonable steps to roll out smart meters to all their domestic and small business customers by the end of 2020. We monitor suppliers' plans and progress to ensure that the interests of consumers are protected. In June, we published an [open letter](#) setting out our observations on submissions we received on rollout activity in 2016.

In December, we published an [open letter](#) setting out our position on compliance with the Data Communication Company (DCC) user mandate, tolerance for 2018 and 2019 smart meter rollout milestones, future submissions of revised rollout plans and consumer engagement.

KEY CONSUMER OUTCOMES

Consumers should have access to smart meters by the end of 2020, and should be starting to realise early benefits.

REMINDERS FOR ALL SUPPLIERS

- Suppliers should ensure that their rollout plans allow time to learn and adapt.
 - Capable meters must be made SMETS1-compliant before the SMETS1 end date, otherwise they will not count towards suppliers' 2020 obligations.
 - We expect suppliers to be actively engaged in End to End testing with the DCC and to have robust plans on how they will ramp up SMETS2 installations.
 - Suppliers are accountable for delivering the rollout, even when using third parties. Suppliers should consider a variety of sources and approaches for recruiting and training sufficiently skilled installers. Where they use third parties, suppliers must ensure contracts and processes are in place to monitor progress.
 - Very high peak installation rates in later years may risk good consumer outcomes. Suppliers must ensure that installations are completed safely and in line with the Smart Meter Installation Code of Practice.
 - Suppliers should adapt their consumer engagement approaches to ensure they are effective, align with the broader engagement activity of Smart Energy GB (SEGB), and ensure that their investment in SEGB provides value for money.
 - Suppliers should also keep the entire customer journey approach under review, from engaged customers to installing a smart meter in their premises. We expect suppliers to learn lessons and overcome barriers, which result in interested customers being able to have a smart meter installed.
 - We have evidence that suggests that some suppliers may not be fully complying with obligations that apply when a smart
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metering customer changes supplier, for example in terms of engaging with the Meter Asset Provider (MAP), or ensuring removed meters are returned to the MAP in good condition.² We encourage suppliers to consider these obligations and assure themselves they are compliant.

- We have increased the allowed tolerance for the 2018 and 2019 annual milestones to 10 percent. This means we will consider a supplier to have met its binding annual milestone in those years if it achieves 90 percent of the annual milestone set.
- We have signalled our intention to agree to any request a supplier makes with regards to submitting a revised rollout plan on 31 January 2019. We encourage suppliers to seek agreement early, for example suppliers may want to do so now.

Suppliers who have failed to meet the deadline for compliance with the DCC User Mandate obligation should review our December [open letter](#) for next steps.

See the [smart metering](#) licence guide.

For key regulatory compliance dates, please check our [website](#).

Smart Prepayment Meter (SPPM) switching

We are monitoring consumer issues throughout the smart meter rollout to ensure customers are treated fairly and can make the most of smart meters – we expect suppliers to do the same.

ISSUE

Energy UK developed guiding [principles](#) to proactively address some issues we are seeing with SPPM switches to prevent future consumer detriment, consulting with BEIS, Citizens Advice and Ofgem. There are specific issues suppliers need to be mindful of when switching SPPM customers, or they may be left off-supply or in financial hardship. SPPM customers who switch suppliers lose access to their credit and need to await a refund from their previous supplier, unlike customers with traditional prepayment meter customers. SPPM customers also need to use their new top up card to stay on supply.

KEY CONSUMER OUTCOMES

- Consumers must receive clear, consistent and accurate information about their supply.
 - Consumers in vulnerable situations must receive the support they need to achieve the same positive outcomes as other consumers.
 - Consumers must not bear the cost of inappropriate conduct by their suppliers.
 - Suppliers should promptly refund in full any credit balances held for customers that have switched supplier.
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² Set out under Standard Licence Condition 44 for Gas and 50 for Electricity.

REMINDERS FOR ALL SUPPLIERS

- Both the losing and gaining supplier should communicate the impact on consumers' credit clearly and take measures to ensure the consumer does not experience detriment.
 - The gaining supplier should ensure that customers have sufficient information and the top up device or top-up ID, to allow them to vend immediately following the switch.
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Upcoming / recent changes and consultations

Changes to how we operate

Enforcement guidelines: We recently published our revised [Enforcement Guidelines](#) to bring greater clarity, consistency and transparency to our enforcement policies and processes, and to reflect changes that we have made to maximise the impact and efficiency of our work.

Changes to the supply licence

Supplier-customer communications: We published an [open letter](#) on our plans to remove unnecessary prescriptive rules from the supply licences relating to domestic supplier-customer communications. As one input to our thinking, Energy UK has prepared a [report](#) on suggested reforms. We will be publishing our own proposals in early 2018, taking into account the input of all stakeholders - get in touch with the [team](#) if you have thoughts to share.

Standards of Conduct: We amended the Fairness Test and compliance threshold in the [Standards of Conduct \(SoC\)](#) to ensure that these obligations focus on the impact a supplier's actions have had on a consumer (rather than the steps taken to secure compliance). For the domestic SoC only, we have also added broad principles requiring suppliers to enable consumers to make informed choices and to have special regard for consumers in vulnerable situations.

Auto-rollover tariffs: We published our [decision letter](#) on auto-rollover tariffs, allowing suppliers, at the end of a fixed-term contract, to roll a customer that has not made an active choice onto a further fixed-term tariff, in some circumstances.

Personal projections: We published a [consultation](#) on the Retail Market Review rules on the personal projection to make sure they are still fit for purpose and future-proofed.

Smart meter rollout: We [amended the framework](#) for regulating larger energy suppliers' smart meter rollout plans, including the requirement for suppliers to submit revised rollout plans in January 2018 where there are material changes to underlying assumptions.

In July, we published an [open letter](#) setting out the key licence conditions that will apply to any suppliers seeking to recover additional costs from the installation of domestic smart meters. Any cost associated with a standard smart meter installation cannot be recovered from an individual customer, and should be borne by a supplier's domestic customers more generally as an increment of the charges for energy.

Backbilling: We are consulting on changes to the supply licence to [protect consumers who receive backbills](#). We propose to protect domestic and microbusiness consumers from the shock and financial hardship of catch-up bills for unbilled consumption older than 12 months. The consultation closes at 9am on Monday, 18 December.

Installing prepayment meters under warrant: We published our [decision](#) on prepayment meters installed under warrant. The new rules will become effective from 8 January 2018 and will prohibit suppliers from charging customers for warrant-related costs where the customer's vulnerability impaired their ability to engage with the supplier, or where the charges would exacerbate the circumstances of a customer already in severe financial hardship. There will be a £150 cap on charges for installing prepayment meters under warrant in all other cases. We are also banning the installation of a prepayment meter under warrant where the force-fitting experience would be severely traumatic to a customer with mental health problems. In addition, we are introducing a principle of proportionality, covering costs and actions of suppliers, for all customers in the debt recovery process.

Making information more accessible – licence guides

We've started producing [guides to the supply licences](#) following stakeholder [feedback](#) about accessing the energy supply rulebook. There are different guides for each 'theme' of supply licence obligations. Each guide includes the consumer outcomes we expect suppliers to deliver, the main regulatory rules that apply to that theme, and useful documents to help you understand the rules. We've already published:

- [Introduction to the supply licences](#)
- [Standards of Conduct](#)
- [Marketing and sales](#)
- [Tariffs and contracts](#)
- [Switching](#)
- [Safety and vulnerable consumer protections](#)
- [Metering, billing and payments](#)
- [Smart metering](#)